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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,160	03/26/2004	Eric Joseph Bilskie	9596	1981

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EXAMINER

PETERSON, KENNETH E

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,160

Applicant(s)

BILSKIE ET AL.

Examiner

Kenneth E. Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,8,10,15,17 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9,11-14,16,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Applicant's election with traverse of group III in the reply filed on 26 April 06 is acknowledged. The traversal is on two grounds, as follows;

Applicant argues that the groups are not independent. This is correct, they are not independent. However, the test, as set forth in MPEP 802.01 is whether they are "independent OR distinct". In this case, they are not independent, but they are distinct. As per MPEP 802.01(II), *"related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation or effect"*. As one can easily see, a device built from group I, *as claimed*, would have a different operation or effect than a device built from group II, *as claimed*. There is two-way distinctness between all of the groups.

Applicant's second argument is that there is no serious burden to examine all of the groups together. Examiner disagrees, as seen in the disparate searches noted in the previous paper. However, upon searching group III, Examiner concluded it would not be a serious burden to also examine group II. Accordingly, group II has been rejoined.

Groups I and IV (claims 2,8,10,15,17 and 20) have been withdrawn.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3-7,9,11-14,16,18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by McCay et al.'575, who shows a core slabber with all of the recited limitation including a cutter (30) mounted on an axial traversing element (23,31), which in turn is mounted on a radial traversing element (11). The feeler 80 constitutes a controller that determines a maximum depth of cut (paragraph spanning columns 3 and 4). Below the roll is a material removal section, which receives the cut material.

The cores and paper wrapped around them are extremely heavy (often weighing several tons) and cannot be lifted manually. This means that devices such as McCay intrinsically have some type of transport element therewith. The transport element with a new roll intrinsically has to come from somewhere adjacent (a feed section), and the transport element with the empty core intrinsically has to go somewhere adjacent (a discharge section).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,3-7,9,11-14,16,18 and 19 are rejected under 35 U.S.C. 103(a).

McCay et al.'575, as set forth above, shows a core slabber with all of the recited limitations. However, if one did not appreciate the intrinsicness of the transport element, feed section and discharge section, then Examiner takes Official Notice that it is well known to employ various transport elements to move the cores between various

stations. An example of this is the patent to Herigestad et al.'335, who shows various wheeled devices such as forklifts for moving rolls between stations. It would have been obvious to one of ordinary skill in the art to supplied McCay with a wheeled device, such as a forklift, as is well known and suggested by Herigestad, in order to get the core and roll to and from the core slabbing machine. The wheeled device would be the "transport element", the location adjacent the core slabber from whence came the wheeled device would be the "feed section", and the location adjacent the core slabber that the wheeled device goes to is the "discharge section".


6. Made of record but not relied on is a patent to Terauchi showing depth control on a roll cutter.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached Mon-Thurs, 7:30AM-5PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KP
May 23, 2006



KENNETH E. PETERSON
PRIMARY EXAMINER